

Migration and Citizenship

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Table of Contents	
Letter from the Co-Presidents	1
Letter from the Editor	2
I. Symposium: Interpretive Methodologies and Methods in Studying Migration and Citizenship Politics	
i. Introduction	4
<i>Ron Schmidt, Sr., Dvora Yanow (eds.)</i>	
ii. The Discursive Construction of Strangers: Analyzing Discourses about Migrants and Migration from a Discourse-historical Perspective	6
<i>Ruth Wodak</i>	
iii. Framing Immigration	10
<i>Ron Schmidt, Sr.</i>	
iv. Accounting for 'Natives' and Strangers: The Work of Metaphors and Categories	15
<i>Dvora Yanow</i>	
v. Racializing and Gendering Immigration Research within Political Science	22
<i>Anna Sampaio</i>	
vi. Migration and Settlement: An Indigenous Studies Perspective on the Politics of Migration in Settler States	27
<i>Kevin Bruyneel</i>	
vii. Finding Narratives through Visual Methods	32
<i>Kristen Hill Maher</i>	
II. Teacher's Corner	36
APSA 2014 Short Course	
<i>Els de Graauw, Mireille Paquet</i>	
III. Policy Brief	39
Policy vs. Reality: Immigration Management in Russia	
<i>Caress Schenk</i>	
IV. Research Institute Profile	43
Malmo Institute for Studies of Migration, Diversity and Welfare	
<i>Pieter Bevelander</i>	
V. Encountering your IRB	47
What Immigration and Citizenship scholars and other Political Scientists Need to Know	
<i>Dvora Yanow, Peregrine Schwartz-Shea</i>	
VI. Section News	
i. Books	52
ii. Journal Articles	54
iii. APSA Section Awards 2014	56
iv. APSA Award Committees 2015	58
v. Member News	60
VII. References and Notes	62

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- Tungohan, Ethel. 2013. "Reconceptualizing Motherhood, Reconceptualizing Resistance:

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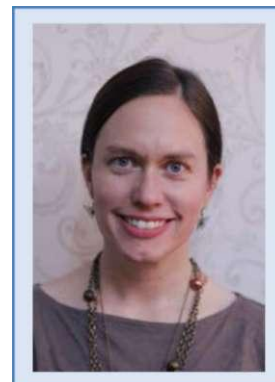
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Policy Brief:

Policy vs. Reality: Immigration Management in Russia

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Though Russia is the second-largest immigrant receiving country in the world, it is rarely included in cross-national studies of migration policy or in the broader migration literature. As migration policy research has evolved from a comparative case or model based approach to a new trend on quantitative comparison through index-building (see the summer 2013 Migration and Citizenship newsletter) the literature has sought to answer whether and how states can control immigrant populations and to assess the policy tools states use to achieve their goals. Yet the vast majority of migration theory has been built on the analysis of democratic migrant receiving countries. As a non-liberal case, the Russian policy context offers important departures from typical migrant entrance and management, particularly in terms of the im-



pact of institutionalized corruption and the use of shadow labor. Because of widespread failure of the rule of law to robustly impact the implementation and enforcement of migration legislation, it is necessary to look beyond the typical variables used to assess immigration policy in Western democracies. Therefore the Russian case is an essential addition to the literature,

especially at this critical juncture when the scholarship is assessing various indicators by which to measure migration policy development.

The most important category of migrants coming to Russia is temporary workers from the former Soviet countries of Central Asia. Officially, temporary labor migration stands around 2 million people per year, though even conservative estimates including undocumented workers are upwards of 6 million (Ioffe and Zayonchkovskaya 2010). Some estimates place the number of immigrants from Uzbekistan, Kyrgyzstan and Tajikistan alone at over 5 million (Anichkova 2012). Toward this end it is instructive to consider how the policies regulating this category of migrants should work according to legislation, how the general approach compares with other immigrant-receiving countries, and the problems (and solutions) encountered by migrants and employers in order to assess how the Russian case can inform current scholarship.

Migrants from former Soviet countries of the Commonwealth of Independent States (CIS) do not need a visa to enter Russia, and are afforded special status in many aspects of the legislation. They are able to stay for up to 90 days on the basis of a migration card received at the border and registration with the migration services at their destination. Longer stays can be negotiated once migrants arrive to Russia by signing an employment contract or buying a labor patent (a permit purchased monthly). From 2007–2014, CIS workers could apply for a 3-month work permit upon arrival and move freely between employers. A work permit of a longer duration required a contract with an employer who had been approved in the previous year to hire foreign workers (through a quota mechanism). Since 2012, certain categories of migrants (i.e. those who work in services such as

janitorial work) were required to also pass a Russian language proficiency test.

In 2010, a new mechanism was introduced for CIS migrants, allowing them to purchase a labor patent for a fee of 1000 rubles (\$30 at pre-crisis prices) per month and work outside the work permit quota system for an individual Russian citizen in the capacity of personal, domestic or non-business work. Beginning in January 2015, the work permit quotas were suspended and patents were extended to cover migrants working for companies in addition to those working for individuals. However also since January 2015, migrants are required to present proof of medical insurance and a certificate showing they have passed a language, history and law test in order to receive a patent. Russia's regional governments are now given the latitude to set patent prices (as much as 8000 rubles, \$123, per month in the Far Eastern region of Chukotka) and suspend the issuing of patents altogether should they deem it necessary. For certain occupations, "allowable shares" are set by the federal government defining the percentage of the labor market that can be comprised of foreign workers. A number of occupations have an allowable share of zero, effectively banning migrants from work in retail trade of pharmaceuticals, in bazaars, markets and other retail trade outside of shops. Recently there has been discussion of limiting foreign workers in the agricultural and construction sectors (two sectors in which migrants contribute most significantly) through this mechanism.

In comparative perspective, there are broad commonalities between Russia and other countries of immigration: the presence of anti-immigrant attitudes and pressure on the government to limit immigration, greater media attention to migration around elections, a segmented labor market, etc., which in some ways

makes Russia a "normal" country of immigration. Even some of the seemingly draconian measures (i.e. language requirements, registration requirements, medical checks etc.) have counterparts in European or North American immigration policy. In terms of entry, Russia is quite open considering that citizens of the major sending countries have visa-free access. In Russia, obtaining a temporary or permanent residence permit is not required as it is in some migrant-receiving countries, and the time required to achieve permanent residency can be less than 2 years. However, Russia requires all foreigners to be registered at a particular address within a relatively short period of time. By some estimates, Russia's labor market can be considered relatively open, given the recent move from regulating work permits by quota to the patent system which has no specific numerical limitations. On the other hand, many experts argue legal access to work is insufficient given the high proportion of illegal immigrants in the immigrant labor market. While it is too soon to tell whether the changes effective January 2015 will reduce the substantial level of undocumented workers (estimates range from 3-8 million), there is reason to be skeptical.

It is important to take into consideration that most immigration problems in Russia do not stem from inadequacy of the law itself, but rather from the interaction of law and actual practice. It is a situation where strict regulation coexists with active practices of corruption and the informal economy, providing reliable mechanisms to circumvent legal procedures. The Russian context is one where policies that seem open (i.e. the non-visa regime and the patent system) are quite closed in reality as migrants find navigating legal processes extremely difficult, and policies that seem increasingly closed (i.e. the previous quota system and current language exam requirements) are fairly easy to circumnavigate through corruption.

For example, despite visa-free entry, many CIS migrants find registration requirements difficult to complete. It has traditionally been quite rare when renting an apartment that a landlord will complete the registration process, and CIS migrants who have the option of being registered at their place of work have found that employers are similarly loathe to complete registration paperwork (Tyuryukanova 2009). It has been more common for migrants to find a friend to register them (this advice is even published on online travel forums), or to register through an intermediary service for a fee. While this type of registration has been a long-standing de facto procedure, there was significant media attention to the issue in 2012 and 2013, particularly in the run-up to presidential elections. As candidate for President, Vladimir Putin spoke out against false registrations and "rubber apartments", where many migrants (as many as several hundreds in some extreme cases) were registered in a single apartment or home though they were not physically living on premises (Reeves 2013; Sergeev 2013; Lysova, Lyauv and Zheleznova 2013). False registrations have since been criminalized (and are now the only migration-related offense that is criminal), but it is too soon to tell what enforcement patterns will be. In many cases when legislation is enacted to rectify legal loopholes or tighten immigration control and enforcement, the result is merely another avenue for corruption. Furthermore, the frequency with which migration law changes and the increasing complexity of regulations makes the legal landscape unpredictable and difficult to navigate. The main migration law has been amended 62 times since its institution in 2002 and has quadrupled in length from 8,000 to over 33,000 words.

When the patent system was introduced in 2010, it was advertised as an easy way to come to Russia and work legally outside the quota

system (Passport-Visa Service). The Federal Migration Service has indeed issued increasing numbers of patents (from 765,000 in 2011 to 1.3 million in 2012), yet critics voice several problems with the original system. One is that migrants often purchase patents because it legalizes their stay in Russia, yet they aren't employed. Since there was no concrete connection between a patent holder and an employer, there was no way to verify the reported work is being carried out. New patent regulations require migrants to submit an employment contract within two months or the patent will be annulled. Another scenario arose when migrants holding patents work for legal entities (companies) even though patents only allowed work for individuals in a personal or domestic capacity. If caught, however, migrants and employers alike could often reliably bribe police and labor inspectors to overlook legal and administrative violations (Guillory 2013; Kurachyova and Chizhova 2013). Though the new legislation closes these particular legal loopholes and common violations, given previous patterns the increasingly strict requirements will almost certainly create further demand for mechanisms to skirt the law. For example, experts predict there will almost certainly be an

increase in corruption schemes providing fake medical and language exam documents.

Because corruption and informal strategies are structurally embedded in Russian politics, policymakers must make different calculations when creating, implementing and enforcing policies than is usually considered in the migration literature (Schenk 2010; Schenk 2013). If legislation truly eliminated opportunities for corruption, lower bureaucrats (i.e. migration officials, law enforcement, labor inspectors, etc.) would lose out on the opportunity to benefit from the proceeds of their positions. If implementation and enforcement reduced the ease with which migrants manage to live and work in the shadow sector, employers would not have reliable access to cheap labor and migrants' access to jobs would be reduced. Keeping in mind that the Russian context is not one in which the dialogues of rights or rule of law have much traction, policymakers are more or less free to pursue seemingly contradictory policy and enforcement practices in order to try and balance disparate interests of government actors, employers, the public and migrants themselves.